

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KENNETH BRANTELY,)
)
Plaintiff,)
)
v.)
)
BNSF RAILWAY COMPANY,)
)
Defendant.)

4:12CV3215

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's Amended Complaint (filing no. [7](#)) and Motion for Paperwork (filing no. [8](#)). On December 4, 2012, the court conducted an initial review of Plaintiff's Complaint and determined that it failed to state a claim upon which relief could be granted. (Filing No. [6](#).) However, the court gave Plaintiff until January 2, 2013, to file an amended complaint. (*Id.* at CM/ECF p. 7.) On December 31, 2012, Plaintiff filed an Amended Complaint. (Filing No. [7](#).)

After reviewing Plaintiff's Amended Complaint, and when liberally construed, Plaintiff has alleged sufficient facts to state Title VII and Age Discrimination in Employment Act claims against BNSF Railway Company. Plaintiff's claims may proceed to service in accordance with this Memorandum and Order.

Also pending is Plaintiffs Motion for Paperwork. (Filing No. [8](#).) In the motion, Plaintiff asks the court to direct the "EEOC & Human Right Comm." to give him all of his paperwork. (*Id.*) Plaintiff's Motion is denied, however, if Plaintiff seeks copies of court documents, he should contact the Clerk of the court to determine the proper method of requesting and paying for copies.

IT IS THEREFORE ORDERED that:

1. To obtain service of process on Defendant, Plaintiff must complete and return the summons forms which the Clerk of the court will provide. The Clerk of the

court shall send ONE summons forms and ONE USM-285 forms to Plaintiff, together with a copy of this Memorandum and Order. Plaintiff shall, as soon as possible, complete the forms and send the completed forms back to the Clerk of the court. In the absence of the forms, service of process cannot occur.

2. Upon receipt of the completed forms, the Clerk of the court will sign the summons forms, to be forwarded with a copy of the Complaint and Amended Complaint to the U.S. Marshal for service of process. The Marshal shall serve the summons and Complaint and Amended Complaint without payment of costs or fees. Service may be by certified mail pursuant to Federal Rule of Civil Procedure 4 and Nebraska law in the discretion of the Marshal. The Clerk of the court will copy the Amended Complaint, and Plaintiff does not need to do so.

3. Federal Rule of Civil Procedure 4 requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this order Plaintiff is informed for the first time of these requirements, Plaintiff is granted, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process.

4. Plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant. A defendant has 21 days after receipt of the summons to answer or otherwise respond to a complaint.

5. The Clerk of Court is directed to set a pro se case management deadline in this case with the following text: "July 9, 2013: Check for completion of service of summons."

6. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court. Plaintiff shall keep the court informed of his current address at all times while this case is pending. Failure to do so may result in dismissal.

7. Plaintiffs Motion for Paperwork (filing no. [8](#)) is denied.

DATED this 11th day of February, 2013.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.